IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 17978 of 2004

Between:

Kolleru Fishermen & Agricultural Small Farmers Association, rep by Secrtary Saidu Satyanarayana S/o balaramaiah R/o Paidi Chintapadu Prathikolla Lanka Post, Eluru Mnadal, West Godavari District

..... PETITIONER

AND

1 The Additional Asst. Engineer Operation D4, Eluru West Godavari District
2 The Additional Asst. Engineer Operation D4, Kaikalur, Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Mandamus declaring the action of the respondent in issuing the proceedings Lr.No.A.AE/O/D4/Elr/F-Fishtanks/D. No. 255,256,257, 258,259,260/04 dt 23-08-2004 to the service connections Nos. 505, 407, 514, 530, 511 and 510 of the Parthikollalanka Matsyakarula Sahakara Sangam, at Parthikollalanka Vilalge Eluru Mandal, West Godavari District, and similar notice to the members of the petitioner Society as wholly illegal and arbitrary and consequently set a side the same.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court at the admission stage made the following:

ORDER:

Heard the learned counsel for the petitioner and Smt.M.Vinobha Devi, learned Standing Counsel appearing for the respondents.

The petitioner claims to be an Association consisting of fishermen and small farmers belonging to two major districts of West Godavari and Krishna. The members of the petitioner Association obtained electricity Service Connection Nos.505, 407, 514, 530, 511 and 510 of Parthikollalanka Village, Eluru Mandal, West Godavari District for the purpose of carrying on the activities of the Association. It is stated that the petitioner Association has been regularly paying the energy consumption charges and there is absolutely no default at any point of time. While so, the impugned proceedings dated 23.08.2004 issued by the respondents have been served on the members of the petitioner Association, in which it is stated that as per the Gazette Notification No.422 dated 11.11.1999 published by the Government of Andhra Pradesh, the proceedings of the District Forest Officer in R.C.No.339/02 WLM dated 01.08.2003 and 28.05.2004, as well as the proceedings of the DEE/O/ELECTRICAL/AE.T/F/D No.1696 dated 12.08.2004, the service connections of the members of the petitioner Association are situated in +5 contour of Kolleru Lake, and therefore, unless it is established within seven days from the date of receipt of the said notice that the service connections are not located within the area of +5 contour of Kolleru Lake, the power supply to the service connections will be disconnected, and the meters will be removed. The said proceedings dated 23.08.2004, are under challenge.

The petitioner Association denies all the allegations made in the impugned notice dated 23.08.2004 and states that the unilateral decision of the respondents under the impugned notice to disconnect the power supply to the service connections of the members of the petitioner Association without affording any opportunity to rebut the allegations made therein is arbitrary and illegal, apart from being without jurisdiction. It is also stated that the impugned proceedings refer to several orders of the Government of Andhra Pradesh, District Forest Officer, as well as the Deputy Executive Engineer, Eluru, but none of the said orders is served on the petitioner Association, and that in the absence of the said proceedings, it cannot effectively explain the allegations in the impugned notice.

Having heard the learned counsel for the petitioner and on a perusal of the material on record, I am of the view that the action proposed under the impugned notice cannot be taken without making available to the petitioner Association the copies of the proceedings on the basis of which the impugned notice has been issued.

Accordingly, I deem it appropriate to dispose of the writ petition with a direction to the respondents to furnish copies of the proceedings of the Order of the Government of Andhra Pradesh in Gazette No.422 dated 11.11.1999, proceedings of the District Forest Officer in R.C.No.339/2002, dated 01.08.2003 and 28.05.2004 as well as the proceedings of the Deputy Executive Engineer (Operation), Eluru, dated 12.08.2004 within a period of two weeks from today. On receipt of such proceedings, it is open to the members of the petitioner Association to submit their explanations to the respondents treating the impugned notice as show-cause notice within two weeks thereafter. If such explanations are received within the time specified above, the respondents shall consider the same and pass appropriate orders in accordance with law.

Till such orders are passed, there shall not be any disconnection of power supply to the service connections of the members of the petitioner Association.

05.10.2004

VGB

To

1 The Additional Asst. Engineer Operation D4, Eluru West Godavari District
2 The Additional Asst. Engineer Operation D4, Kaikalur, Krishna District

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